

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

PLANO DIVISION

|                           |                            |
|---------------------------|----------------------------|
| UNITED STATES OF AMERICA, | *                          |
|                           | * CASE NO.                 |
| Plaintiff,                | * 4:17-CR-105-1 ALM-KPJ    |
|                           | * PLANO, TEXAS             |
| v.                        | * THURSDAY                 |
|                           | * DECEMBER 21, 2017        |
| DEREK MYLAN ALLDRED,      | * 10:59 A.M. TO 11:15 A.M. |
|                           | *                          |
| Defendant.                | *                          |

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TRANSCRIPT OF CHANGE OF PLEA HEARING

BEFORE THE HONORABLE KIMBERLY C. PRIEST JOHNSON

UNITED STATES MAGISTRATE JUDGE

DECEMBER 21, 2017

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A P P E A R A N C E S

For the Government:

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For the Defendant:

Robert Arrambide, Esquire  
Federal Public Defender - Sherman  
600 East Taylor, Suite 4000  
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1 PLANO, TEXAS; THURSDAY, DECEMBER 21, 2017; 10:59 A.M.

2 (Call to Order of the Court)

3 THE COURT: The Court calls Case Number  
4 4:17-CR-105, United States versus Derek Mylan  
5 Alldred.

6 MS. RATTAN: Heather Rattan for the United  
7 States, Your Honor.

8 MR. ARRAMBIDE: Robert Arrambide for Mr.  
9 Alldred, Your Honor. If I may approach?

10 THE COURT: Good morning.

11 Mr. Alldred, please raise your right hand  
12 to be sworn.

13 (Defendant sworn.)

14 THE COURT: All right. We're here today,  
15 sir, for your change of plea hearing. Please state  
16 your full name and age for the record.

17 THE DEFENDANT: Derek Mylan Alldred, 47  
18 years old.

19 THE COURT: And what is the last grade of  
20 school you've completed?

21 THE DEFENDANT: Pardon me.

22 THE COURT: What is the last grade of  
23 school you've completed?

24 THE DEFENDANT: Five years of college, so.

25 THE COURT: Have you ever been diagnosed

1 with any mental illness or problem?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. Tell me about that.

4 THE DEFENDANT: When I was a child.

5 THE COURT: Okay. I'm having a hard time  
6 hearing you.

7 THE DEFENDANT: I'm sorry. When I was a  
8 child 25 years ago, dissociative identity disorder  
9 that it's been with me for 25 years.

10 THE COURT: Have you been followed by a  
11 doctor for that?

12 THE DEFENDANT: On and off, yes.

13 THE COURT: Okay. And are you currently on  
14 any prescribed medications?

15 THE DEFENDANT: No.

16 THE COURT: Okay. All right. Are you  
17 currently under the influence of any drug or alcohol?

18 THE DEFENDANT: No.

19 THE COURT: All right. Mr. Arrambide, do  
20 you believe your client is competent to proceed here  
21 today?

22 MR. ARRAMBIDE: Yes, Your Honor.

23 THE COURT: Sir, you have the right to have  
24 your plea taken by the district judge assigned to  
25 your case or you can have me, a United States

1 magistrate judge, take your plea and make a  
2 recommendation to the district court. Do you  
3 understand you have this right?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: I'm holding up your Waiver and  
6 Consent Form. Is that your signature on the bottom?

7 THE DEFENDANT: Yes.

8 THE COURT: That's an interesting  
9 signature. And is it your desire to have your plea  
10 taken by me here today and then make a recommendation  
11 to the district court?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right. I find the Waiver  
14 and Consent's been knowingly and voluntarily given  
15 and we'll proceed with the plea. Have you had an  
16 opportunity to fully review and discuss this case  
17 with your counsel?

18 THE DEFENDANT: I have, yes.

19 THE COURT: Are you satisfied with the  
20 advice and representation you've been given?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: All right. You've been charged  
23 with violations of federal criminal law in a First  
24 Superseding Indictment. Have you received a copy of  
25 the Indictment?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You have the right to have the  
3 Indictment read aloud into the record or you may  
4 waive that right. What would you like to do?

5 THE DEFENDANT: I'll waive it. Yes, ma'am.

6 THE COURT: All right. Do you understand  
7 the nature of the charges alleged against you?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. I'm going to ask the  
10 Assistant United States Attorney to read aloud the  
11 elements of the offense to which you're pleading  
12 guilty. These are the elements the Government would  
13 be required to prove beyond a reasonable doubt to  
14 establish your guilt if you were to go to trial.

15 Ms. Rattan.

16 MS. RATTAN: Your Honor, the Defendant's  
17 pleading guilty to Counts 3, 4, and 6 of the  
18 Superseding Indictment. The elements for Counts 3  
19 and 4 are: (1) that the Defendant knowingly  
20 transferred, possessed, or used (2) without lawful  
21 authority (3) means of identification of another  
22 person (4) during and relation to a felony enumerated  
23 in 18 U.S.C. Code Section 1028(a)(C), specifically  
24 access device fraud.

25 The elements of Count 6 are: that the

1 Defendant knowingly devised or intended to devise a  
2 scheme to defraud; (2) that the scheme to defraud  
3 employed false material representation pretenses and  
4 promises; (3) that the Defendant mailed something or  
5 caused something to be sent or delivered through the  
6 United States Postal Service or a private or  
7 commercial carrier for the purpose of executing such  
8 scheme or attempted to do so; and (4) that the  
9 Defendant acted with the specific intent to defraud.

10 Those are the elements of the three counts  
11 the Defendant's pleading guilty to, Your Honor.

12 THE COURT: Thank you.

13 Mr. Alldred, do you understand each of the  
14 essential elements set forth?

15 THE DEFENDANT: I do, Your Honor.

16 THE COURT: And do you admit that you  
17 committed each one of those elements?

18 THE DEFENDANT: Yes, ma'am, I do.

19 THE COURT: All right. I've received plea  
20 documents that have been signed by you and your  
21 counsel. Well, I say that. I think we had some  
22 documents that still needed signatures. Have we --  
23 we have those now? Okay. All right. The documents  
24 consist of a Plea Agreement, a Plea Agreement  
25 Addendum, and a Factual Basis.

1           Let me ask you, sir, to please confirm your  
2 signature on each one of those documents.

3           THE DEFENDANT: Yes, ma'am. On the first  
4 one, the Addendum. Yes, ma'am.

5           THE COURT: All right. And did you review  
6 each one of these documents with your counsel before  
7 you signed them?

8           THE DEFENDANT: Yes, I did. Yes, ma'am.

9           THE COURT: Okay. If you'll look with me  
10 at your Plea Agreement, I'm going to review some of  
11 the paragraphs in our Plea Agreement aloud if you'll  
12 please follow along, starting with paragraph 1  
13 entitled "Rights of the Defendant." This paragraph  
14 list certain constitutional rights that you have,  
15 such as to plead not guilty, to have a trial by a  
16 jury, to have your guilty proved beyond a reasonable  
17 doubt, to confront and cross-examine witnesses and to  
18 call witnesses in your defense, and to not be  
19 compelled to testify against yourself.

20           Going down to paragraph 2, if you plead  
21 guilty to Counts 3, 4, and 6 of the Superseding  
22 Indictment, you will be waiving those constitutional  
23 rights. Do you understand that?

24           THE DEFENDANT: I do.

25           THE COURT: Paragraph 3 entitled



1 "Sentence," this paragraph lists the minimum and  
2 maximum penalties that can be imposed in your case,  
3 and they are as follows: For Counts 3 and 4,  
4 imprisonment for a term of 24 months to run  
5 consecutive which means in addition to any other term  
6 of imprisonment imposed, a fine not to exceed \$10  
7 million, and a term of supervised release of at least  
8 five years, a special assessment of \$100, forfeiture  
9 of property involved in or traceable to the offense,  
10 restitution to victims of the community, and costs of  
11 incarceration and supervision.

12 For Count 6, the minimum and maximum  
13 penalties are: imprisonment for a period of not more  
14 than 20 years, a fine not to exceed \$250,000, a term  
15 of supervised release of not more than three years,  
16 and then a special assessment of \$100, the forfeiture  
17 of property involved in or traceable to the offense,  
18 and restitution to the victims of the community and  
19 costs of incarceration and supervision.

20 Do you understand these are the minimum and  
21 maximum penalties that can be imposed in your case?

22 THE DEFENDANT: Yes, Your Honor. I do.

23 THE COURT: All right. And, sir, just to  
24 make sure you understand this correctly, do you  
25 understand that the punishment for Counts 3 and 4

1 will -- that the jail time imposed will be in  
2 addition to what is imposed for Count 6?

3 (Counsel and Defendant confer briefly)

4 THE DEFENDANT: Yes, sir. I do. Yes, Your  
5 Honor.

6 THE COURT: Okay.

7 THE DEFENDANT: Thank you.

8 THE COURT: Paragraph 4 entitled "Court  
9 Sentencing, Discretion, and Role of the Guidelines,"  
10 this paragraph discusses the United States Sentencing  
11 Guidelines. Essentially, the Court will refer to the  
12 Guidelines in determining your sentence but those  
13 guidelines are not binding upon the Court. Do you  
14 understand that?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: Have you had an opportunity to  
17 discuss the guideline range in your case with your  
18 counsel?

19 THE DEFENDANT: Yes, Your Honor. I have.

20 THE COURT: Paragraph 5 entitled,  
21 "Guideline Stipulations" lists a provision, the  
22 guideline provision that you and the Government agree  
23 should apply to your case. Do you understand that  
24 the Court is not bound by this stipulation?

25 THE DEFENDANT: Yes, Your Honor. I do.

1           THE COURT: Do you also understand that if  
2 you are sentenced to a term that is higher than what  
3 you're expecting, that you will still be bound by  
4 this Plea Agreement?

5           THE DEFENDANT: I do, Your Honor. Yes.

6           THE COURT: So long as it does not exceed  
7 the statutory maximum?

8           THE DEFENDANT: Yes, I do.

9           THE COURT: All right. If you'll look with  
10 me at paragraph 8 entitled "Forfeiture," this  
11 paragraph states that you're agreeing to forfeit  
12 voluntarily and immediately the items listed in  
13 subparagraphs (a) and (b). Subparagraph (a) states  
14 military uniforms, ribbons, badges, or any other  
15 military item, and (b) counterfeit badges and  
16 emblems.

17           Are you, in fact, agreeing to forfeit those  
18 items to the Government?

19           THE DEFENDANT: Yes, Your Honor.

20           THE COURT: And, also, within this  
21 paragraph you're agreeing not to file any claim with  
22 respect to those items or try to intervene in any  
23 forfeiture proceeding. Is that correct?

24           THE DEFENDANT: Yes, Your Honor.

25           THE COURT: Paragraph 11 entitled

1 "Voluntary Pleas" states your plea of guilty is  
2 freely and voluntarily made. Has anyone tried to  
3 force you or threaten you to plead guilty in this  
4 case?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: And other than this Plea  
7 Agreement, have any promises or assurances been made  
8 to you in an effort to induce your plea of guilty?

9 THE DEFENDANT: No. No, Your Honor.

10 THE COURT: Paragraph 12 entitled "Waiver  
11 of Right To Appeal or Otherwise Challenge Your  
12 Sentence," this paragraph states that you're agreeing  
13 to give up your appellate rights in this case with  
14 the exception of two limited circumstances, number 1  
15 being the sentence imposed exceeds the statutory  
16 maximum and number 2 being your right to appeal or  
17 seek collateral review of the claim of ineffective  
18 assistance of counsel.

19 Are you in fact agreeing to give up your  
20 appellate rights in this case with the exception of  
21 those two circumstances?

22 THE DEFENDANT: Yes, ma'am. I am.

23 THE COURT: All right. If you'll look with  
24 me at your Plea -- your Factual Basis, Ms. Rattan,  
25 would you please summarize the Factual Basis in this

1 case?

2 MS. RATTAN: Your Honor, the Defendant  
3 stipulates and agrees that at all times relevant to  
4 the Superseding Indictment, the following facts were  
5 true:

6 (1) that the Defendant who's changing his  
7 plea to guilty in each of these counts is the same  
8 person charged in the Superseding Indictment;

9 (2) that the events described in the  
10 Superseding Indictment occurred in the Eastern and  
11 Northern Districts of Texas and elsewhere;

12 (3) that on April 24th of 2017 and May 11th  
13 of 2017, the Defendant knowingly used without lawful  
14 authority a means of identification of another person  
15 during and in relation to the felony offense of  
16 access device fraud knowing the means of  
17 identification belonged to another actual person;

18 (4) the Defendant with the intent to  
19 defraud devised a scheme to defraud and obtain money  
20 by materially false and fraudulent pretenses,  
21 representations, and promises. As part of executing  
22 the scheme to defraud on April 18th of 2017, the  
23 Defendant knowingly caused to be delivered by mail or  
24 any private carrier items he'd purchased on the  
25 Internet; and

1           (5) beginning in April of 2017, the  
2 Defendant engaged in a relationship with an  
3 individual he met through an online dating website,  
4 he falsely presented himself as a person named  
5 Richard Taylor. He falsely claimed to be employed as  
6 a college professor and as a captain in the Naval  
7 Reserves. He has never been employed in either of  
8 these occupations. He routinely wore a military  
9 uniform and carried counterfeit badges in order to  
10 continue the scheme to defraud.

11           During the relationship, the Defendant used  
12 two of the individuals' credit cards without  
13 permission to order various items online and have  
14 them shipped to the individual's residence in The  
15 Colony, Texas.

16           That's the Factual Basis, Your Honor.

17           THE COURT: Thank you.

18           Mr. Alldred, is everything in the Factual  
19 Basis true and correct?

20           THE DEFENDANT: It is, Your Honor.

21           THE COURT: Are there any changes you want  
22 to make to it at this time?

23           THE DEFENDANT: No, Your Honor.

24           THE COURT: In your own words, please  
25 summarize the criminal conduct to which you're

1 pleading guilty.

2 THE DEFENDANT: To two counts of identity  
3 theft, aggravated identity theft, and one count of  
4 mail fraud.

5 THE COURT: I know that's the charge.

6 THE DEFENDANT: Oh, I'm sorry.

7 THE COURT: I need you to summarize in your  
8 own words what you did.

9 THE DEFENDANT: Oh, I'm sorry. I -- I used  
10 a false name, Richard Taylor, on two different  
11 occasions. I don't recall the dates, but that --  
12 that's for the -- the identity theft. The mail  
13 fraud, I caused something to be mailed under false  
14 pretenses to me.

15 MR. ARRAMBIDE: Utilizing whose credit  
16 card?

17 THE DEFENDANT: Oh, using someone else's  
18 credit card.

19 THE COURT: Okay. Are both counsel  
20 satisfied there's a factual basis to support the  
21 plea?

22 MS. RATTAN: Yes, Your Honor.

23 MR. ARRAMBIDE: Yes, Your Honor.

24 THE COURT: Mr. Arrambide, have you had an  
25 opportunity to fully review and discuss this case

1 with your client?

2 MR. ARRAMBIDE: I have, Your Honor.

3 THE COURT: And do you join in his decision  
4 to plead guilty?

5 MR. ARRAMBIDE: I do, Your Honor.

6 THE COURT: Mr. Alldred, then I'll ask you  
7 with respect to Counts 3 and 4 of the Superseding  
8 Indictment which charges a violation of 18 U.S.C.  
9 1028(a), Aggravated Identity Theft and Count 6 of the  
10 Superseding Indictment which charges a violation of  
11 18 U.S.C. 1341, Mail Fraud, how do you plead, guilty  
12 or not guilty?

13 THE DEFENDANT: Guilty, Your Honor.

14 THE COURT: All right. I'll accept your  
15 plea of guilty and make the following findings on the  
16 record. The Court finds that you are competent to  
17 plead and you have had assistance of counsel, you  
18 understand your trial rights, and you understand the  
19 nature of the charges against you. You understand  
20 the minimum and maximum penalties that can be imposed  
21 with these charges. You understand the district  
22 court will refer to the Sentencing Guidelines in  
23 determining your sentence, but those guidelines are  
24 not binding upon the Court.

25 I find that your plea is knowing and



1 voluntary and that there is a factual basis to  
2 support your plea. At this time we'll enter into the  
3 record the Waiver and Consent Form, the Plea  
4 Agreement, the Plea Agreement Addendum, and the  
5 Factual Basis.

6 I will make a recommendation that the  
7 district court accept your plea of guilty. You'll  
8 have 14 days to make any objection to that  
9 recommendation.

10 At this time, you're going to be remanded  
11 to the custody of the United States marshal pending  
12 your sentencing hearing. In the interim, you'll be  
13 interviewed by a probation officer. They'll prepare  
14 a pre-trial -- a pre-sentence report. You'll have an  
15 opportunity to review that report with your counsel,  
16 make objections to it, and the district court will  
17 use both the report and the objections in determining  
18 your sentence.

19 Do you understand that?

20 THE DEFENDANT: I do, Your Honor.

21 THE COURT: Anything further from counsel?

22 MS. RATTAN: No, Your Honor.

23 MR. ARRAMBIDE: No, Your Honor.

24 THE COURT: All right. We'll stand  
25 adjourned in your case.

1 (Proceedings adjourned at 11:15 a.m.)

2 \*\*\*\*\*

3  
4 CERTIFICATE OF TRANSCRIBER

5  
6 I, Dipti Patel, court-approved transcriber,  
7 certify that the foregoing is a full and correct  
8 transcript from the official electronic sound  
9 recording of the proceedings in the above-entitled  
10 matter.

11  
12  
13 /s/ Dipti Patel

14 Dipti Patel, CET-997

15 847.848.4907

16  
17  
18 Date: October 4, 2018